

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

AUGUSTINE ROSARIO,)	
)	
Plaintiff,)	Civil Action No. 06-782
)	
v.)	Judge McVerry
)	Magistrate Judge Caiazza
LOUIS S. FOLINO, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM ORDER

This prisoner civil rights suit was commenced on June 14, 2006, with the filing of petition to proceed *in forma pauperis*, and was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on January 9, 2007, recommended that the Defendants' Motion to Dismiss be treated as a Motion for Summary Judgment and that it be granted. The parties were allowed ten days from the date of service to file objections. Plaintiff Rosario filed objections on January 17, 2007.

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation and the objections thereto, the following order is entered:

AND NOW, this 1st day of February, 2007,

IT IS HEREBY ORDERED that the Defendants' Motion to Dismiss is treated as a Motion for Summary Judgment and is GRANTED.

The Report and Recommendation of Magistrate Judge Caiazza, (Doc. 18), dated January 9, 2007, is adopted as the opinion of the court.

s/Terrence F. McVerry
Terrence F. McVerry
U.S. District Court Judge

cc: Augustine Rosario
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